

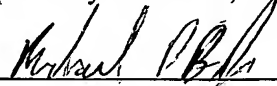
**REMARKS**

The Applicants have properly addressed the Examiner's restriction requirement by electing a Group V, claims 11-15. All pending claims are currently directed to novel methods of inhibiting bacterial infection using bactericidal SPO1 proteins. The generic claim to methods of inhibiting bacterial infections includes a Markush group of SPO1 peptides which are active antibacterial peptides SEQ ID NO: 1-5, 7-10, and 12-24. The Applicants have provisionally elected a single species, SEQ ID NO: 8 (GENE 44).<sup>1</sup>

In view of the above arguments and amendments, the Applicants believe the pending application is in condition for allowance.

Dated: January 14, 2005

Respectfully submitted,

By   
Michel D. Berger, Ph.D.

Registration No.: 52,616

JENKENS & GILCHRIST, A PROFESSIONAL  
CORPORATION

5 Houston Center  
1401 McKinney, Suite 2600  
Houston, Texas 77010  
(713) 286-2018  
(713) 951-3314 Facsimile

---

<sup>1</sup> M.P.E.P. § 803.02 (emphasis added):

A Markush-type claim can include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing claims of that nature, **the examiner may require a provisional election of a single species prior to examination on the merits.** The provisional election will be given effect in the event that the Markush-type claim should be found not allowable. Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability.